

REMARKS

Applicants respectfully request reconsideration of this application as amended. No claims have been amended, canceled, or added by this Response. Therefore, claims 31-67 are presented for examination.

Double Patenting

The Examiner has rejected claims 31, 34-46, 53-57, 59-63, and 66-67 under the judicially created doctrine of double patenting over claims 1, 3, 6, 8-9, 11, 15, 17, 29-30, 32-33, 35, and 40 of U.S. Patent No. 6,671,722 owned by the same Assignee of the subject application.

Since the claims are still under examination, and may still change, Applicants hereby decline to submit a terminal disclaimer to overcome any actual or provisional double patenting rejection based on a nonstatutory double patenting ground until such time that the Examiner indicates allowable claims.

35 U.S.C. §102(e) Rejection***Spencer***

The Examiner has rejected claims 31-36, 38-42, 44-48, 51, 53-57, 59-64, and 66 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,253,243 (hereinafter "Spencer").

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"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). MPEP §2131.

Spencer describes an enhanced SNMP (Simple Network Management Protocol) trap daemon that allows more generality in matching trap information for CMIP (Common Management Information Protocol) conversion and more specificity in determining how traps are forwarded to other managers and mapped to CMIP events. The trap mechanism also has a filter to route specific traps to specific managers (Spencer, Abstract). To accomplish this, an SNMP trap is converted to a CMIP event by mapping trap fields to fields in a CMIP mapping file (Spencer, for example, column 6, lines 52-58).

It is respectfully submitted that Spencer does not disclose each and every element as set forth in claims 31-36, 38-42, 44-48, 51, 53-57, 59-64, and 66. For example, Spencer does not describe "generating a packet on an integrated circuit, the packet based on the packet template", as required by, for example, claim 31. Each of the other currently pending independent claims recite limitations that are similar to these limitations of claim 31, although some differences may exist among the limitations of the other pending independent claims. These similar limitations nevertheless patentably distinguish the claims over Spencer.

In the subject application, a packet is generated on an integrated circuit. See, for example, Specification, p. 4, lines 12-17. In Spencer, an SNMP trap daemon receives an SNMP trap and maps the fields of the SNMP trap to CMIP events using a mapping file (Spencer, for example, column 7, line 66 – column 8, line 1). An SNMP trap daemon "is a separate UNIX process which listens on a predetermined network port for incoming SNMP traps which must be forwarded to management stations. In Spencer, a packet is not generated by an integrated circuit as required by, for example, claim 31 of the subject application.

Since Spencer does not describe, expressly or inherently, each and every element of claims 31-36, 38-42, 44-48, 51, 53-57, 59-64, and 66, it is respectfully submitted that the Examiner has not succeeded in establishing a *prima facie* case of anticipation. Therefore, it is respectfully requested that the Examiner withdraw the rejection of claims 31-36, 38-42, 44-48, 51, 53-57, 59-64, and 66.

35 U.S.C. §103(a) Rejection

Spencer in view of Cromer

The Examiner has rejected claims 37 and 43 under 35 U.S.C. §103(a) as being obvious by Spencer in view of U.S. Patent No. 6,357,007 (hereinafter "Cromer").

In order to establish a *prima facie* case of obviousness:

"First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary

skill in the art, to modify the reference or to combine reference teachings.

Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations." (Emphasis added). *In re Vaech*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Manual of Patent Examining Procedure (MPEP), 8th Edition, August 2001, §2143.

Cromer teaches a computer system that can detect and record the time of a tamper event. The triggering events are tamper events detected by the computer system, such as a toggle switch being activated when the cover of a personal computer is removed (Cromer, for example, column 6, lines 48-57). In an embodiment, the tamper events are operatively connected to logic that contains a duplicate of the system's RTC (real time clock), which is a shadow of the system RTC, but can be stopped by a tamper event.

Applicants respectfully submit that the Examiner has not established a prima facie case of obviousness because:

1. The combination of Spencer and Cromer does not teach or suggest all the claim limitations.
2. There is no suggestion or motivation in either Spencer nor in Cromer to combine their teachings.

The combination of Spencer and Cromer does not teach or suggest all the claim limitations.

As discussed above, Spencer does not describe each and every element as set forth in claim 31, and for example, as set forth in claim 39. For example, Spencer does not describe "generating a packet on an integrated circuit, the packet based on the packet template". Spencer also does not teach or suggest this claim limitation. Since claim 37 depends from claim 31, and claim 43 depends from claim 39, and the dependent claims inherit all the limitations of their base independent claims and claims depending therefrom, it follows that claims 37 and 43 also do not describe "generating a packet on an integrated circuit, the packet based on the packet template".

Furthermore, since Cromer does not describe, teach or suggest "generating a packet on an integrated circuit, the packet based on the packet template", Cromer does not describe, teach or suggest that which is missing from Spencer. Therefore, the combination of Spencer and Cromer does not teach or suggest each and every element of claims 37 and 43.

Since the combination of Spencer and Cromer does not teach or suggest all the claim limitations, it is respectfully submitted that the Examiner has not succeeded in establishing a *prima facie* case of obviousness. Therefore, it is respectfully requested that the Examiner withdraw the rejection of claims 37 and 43.

There is no suggestion or motivation in either Spencer nor Cromer to combine their teachings.

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). MPEP §2143.01.

Even assuming that the combination of Spencer and Cromer teaches or suggests each and every element of claims 37 and 43, both references lack the suggestion or motivation for combination. Spencer teaches an enhanced method for mapping an SNMP trap to a CMIP event, and Cromer teaches a method for detecting and recording a tamper event. Applicants fail to find the specific understanding or principle within the knowledge of the skilled artisan that would have provided the motivation to use an ASIC (application specific integrated circuit) for receiving tamper signals as described in Cromer, with an SNMP trap daemon for mapping to a CMIP event as described in Spencer. While the two references describe events, the type of events described are inherently different. (*In re Kotzab*, 217 F.3d at 1371, 55 USPQ2d at 1318).

Again assuming that the combination of Spencer and Cromer teaches or suggests each and every element of claims 37 and 43, even though in theory it would have been a technologically simple concept to combine the teachings of Spencer with the teachings of Cromer, such combination is still not proper unless the references provide the motivation for the combination. ("Furthermore, though a combined element may be a 'technologically simple concept', the reference must still provide the motivation for the combination." *In re Kotzab*, 217 F.3d at

1371, 55 USPQ2d at 1318. MPEP §2143.) Spencer and Cromer simply do not provide such motivation for combination.

Since there is no suggestion or motivation in either Spencer nor Cromer to combine their teachings, it is respectfully submitted that the Examiner has not succeeded in establishing a *prima facie* case of obviousness. Therefore, it is respectfully requested that the Examiner withdraw the rejection of claims 37 and 43.

Conclusion

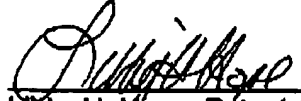
The Examiner is invited to initiate an interview with the undersigned by calling 949-498-0601 if the Examiner believes that such an interview will advance prosecution of this application.

Charge our Deposit Account

Please charge any shortage to our Deposit Account No. 50-0221.

Respectfully submitted,

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